

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANTONIO LAVON DOYLE,

Petitioner,

vs.

RENEE BAKER, *et al.*,

Respondents.

3:00-cv-00101-RCJ-WGC

ORDER

This capital habeas corpus action was stayed on December 18, 2009 (ECF No. 230), pending the petitioner's exhaustion of claims in state court. On June 3, 2016, the petitioner, Antonio Lavon Doyle, filed a motion to lift the stay (ECF No. 256). In that motion, Doyle states that the state-court proceedings have concluded. On June 17, 2016, respondents filed a response to the motion to lift the stay (ECF No. 257), stating that they do not oppose the motion. The court will grant Doyle's motion to lift the stay, and will set a schedule for further litigation of this action.

The court will also direct the clerk of the court to update the docket with respect to the identity of the respondent warden.

IT IS THEREFORE ORDERED that petitioner's Motion to Vacate Stay and Reopen Capital Habeas Proceedings (ECF No. 256) is **GRANTED**. The stay of this action is lifted.

1 **IT IS FURTHER ORDERED** that the following schedule shall govern the further litigation
2 of this action:

3 1. **Amended Petition.** If necessary, petitioner shall file and serve a second amended
4 petition for writ of habeas corpus within **60 days** after entry of this order. The second amended
5 petition shall specifically state whether each ground for relief has been exhausted in state court; for
6 each claim that has been exhausted in state court, the second amended petition shall state how, when,
7 and where that occurred. If petitioner determines that a second amended petition need not be filed,
8 then, within 60 days after entry of this order, petitioner shall file and serve a statement to that effect.

9 2. **Response to Petition.** Respondents shall have **60 days** following service of the
10 second amended petition to file and serve an answer or other response to the second amended
11 petition. If petitioner does not file a second amended petition, respondents shall have **60 days**
12 following the due-date for the second amended petition to file and serve an answer or other response
13 to petitioner's first amended petition.

14 3. **Reply and Response to Reply.** Petitioner shall have **45 days** following service of an
15 answer to file and serve a reply. Respondents shall thereafter have **30 days** following service of a
16 reply to file and serve a response to the reply.

17 4. **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss, petitioner
18 shall have **60 days** following service of the motion to file and serve a response to the motion.
19 Respondents shall thereafter have **30 days** following service of the response to file and serve a reply.

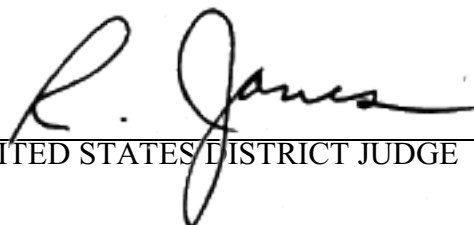
20 5. **Discovery.** If petitioner wishes to move for leave to conduct discovery, petitioner
21 shall file and serve such motion concurrently with, but separate from, the response to respondents'
22 motion to dismiss or the reply to respondents' answer. Any motion for leave to conduct discovery
23 filed by petitioner before that time may be considered premature, and may be denied, without
24 prejudice, on that basis. Respondents shall file and serve a response to any such motion concurrently
25 with, but separate from, their reply in support of their motion to dismiss or their response to
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1 petitioner's reply. Thereafter, petitioner shall have 20 days to file and serve a reply in support of the
2 motion for leave to conduct discovery.

3 **6. Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing,
4 petitioner shall file and serve a motion for an evidentiary hearing concurrently with, but separate
5 from, the response to respondents' motion to dismiss or the reply to respondents' answer. Any
6 motion for an evidentiary hearing filed by petitioner before that time may be considered premature,
7 and may be denied, without prejudice, on that basis. The motion for an evidentiary hearing must
8 specifically address why an evidentiary hearing is required, and must meet the requirements of
9 28 U.S.C. § 2254(e). The motion must state whether an evidentiary hearing was held in state court,
10 and, if so, state where the transcript is located in the record. If petitioner files a motion for an
11 evidentiary hearing, respondents shall file and serve a response to that motion concurrently with, but
12 separate from, their reply in support of their motion to dismiss or their response to petitioner's reply.
13 Thereafter, petitioner shall have 20 days to file and serve a reply in support of the motion for an
14 evidentiary hearing.

15 **IT IS FURTHER ORDERED** that, pursuant to Federal Rule of Civil Procedure 25(d),
16 Renee Baker is substituted for E.K. McDaniel, as the respondent warden. The clerk of the court shall
17 substitute Renee Baker for E.K. McDaniel, on the docket, as the respondent warden, and shall update
18 the caption of the action to reflect that change.

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20 Dated this 28th day of June, 2016.

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23 UNITED STATES DISTRICT JUDGE
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